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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,567	04/07/2004	Robert O'Farrell	026276-000210US	8559
	7590 12/23/200 AND TOWNSEND AN	EXAMINER		
TWO EMBAR	CADERO CENTER	KIM, PAUL		
EIGHTH FLOO SAN FRANCIS	5CO, CA 94111-3834		ART UNIT	PAPER NUMBER
			2169	
			MAIL DATE	DELIVERY MODE
			12/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/820,567	O'FARRELL ET AL.	
Examiner	Art Unit	

NOTICE OF APPEAL Color of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3.		17(OET(IIVI	2100				
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compiliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compiliance with 37 CFR 1.114. The reply must be filed within one of the following term of the final rejection. □ The period for reply exprises	The MAILING DATE of this communication appe	ars on the cover sheet with the c	correspondence address				
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal feet) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply exprises months from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply exprise and the statutory of the	THE REPLY FILED 15 December 2008 FAILS TO PLACE THIS	S APPLICATION IN CONDITION F	OR ALLOWANCE.				
the period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, no revent, however, will be statutory period for reply expire leafer than \$M MONTHS from the mailing date of than rejection. Examiner Note: If box 1 is checked, check either box (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS GF THE FINAL RELECTION. See MPEP 786 507(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked, Any reply recover by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in the boxe, if checked, Any reply recover by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). **MENDMENTS** 3.	 The reply was filed after a final rejection, but prior to or on application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C 	the same day as filing a Notice of A replies: (1) an amendment, affidavited al (with appeal fee) in compliance w	Appeal. To avoid abandonment of this t, or other evidence, which places the with 37 CFR 41.31; or (3) a Request				
no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1: s checked, check cither box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REFLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See IMPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed in the period of the filed of the final rejection, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any examendation and the set of the filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (a), to any extension thereof (37 CFR 41.37 (b), to avoid dismissal of the appeal. Since a Notice of Appeal was filed on the filing a Notice of Appeal will not be entered because for appeal and/or give the service of the filing and the filing and the filing and the filing and	a) The period for reply expiresmonths from the mailing	date of the final rejection.					
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 2.	have been filed is the date for purposes of determining the period of ext under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the s set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b).	ension and the corresponding amount on the hortened statutory period for reply original for replacements or r	of the fee. The appropriate extension fee nally set in the final Office action; or (2) as				
In the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS		liance with 37 CER 41 37 must be f	filed within two months of the date of				
The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a)	filing the Notice of Appeal (37 CFR 41.37(a)), or any exter Notice of Appeal has been filed, any reply must be filed wi	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of the appeal. Since a				
(a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE:		out prior to the data of filing a brief	will not be entered because				
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE:	(a) ☐ They raise new issues that would require further cor	nsideration and/or search (see NOT					
(d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE:	(c) They are not deemed to place the application in bet	•	ducing or simplifying the issues for				
 4.	(d) ☐ They present additional claims without canceling a c	corresponding number of finally reje	ected claims.				
5. Applicant's reply has overcome the following rejection(s):	 ·	21. See attached Notice of Non-Cor	mpliant Amendment (PTOL-324).				
Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). Newly proposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) originate or consideration: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE Solution of the evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	<u> </u>		inspirant, anonamont (1 1 oz oz 1).				
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) 13. Other: Applicant's arguments regarding the priority date of the Kompella have been considered and are persuasive. Another Final Office action will be mailed susequently.	6. Newly proposed or amended claim(s) would be all		timely filed amendment canceling the				
Claim(s) objected to: Claim(s) rejected: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 3. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 3. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) 13. Other: Applicant's arguments regarding the priority date of the Kompella have been considered and are persuasive. Another Final Office action will be mailed susequently.	7. For purposes of appeal, the proposed amendment(s): a) [how the new or amended claims would be rejected is prov The status of the claim(s) is (or will be) as follows:		l be entered and an explanation of				
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